

2009 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB375)

Received: 11/25/2009

Received By: gmalaise

Wanted: 11/30/2009

Identical to LRB:

For: Director of State Courts 7-9733

By/Representing: Nancy Rottier

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Children - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: nancy.rottier@wicourts.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exchange of electronic records between juvenile courts and Department of Children and Families

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 11/25/2009	wjackson 11/30/2009		_____			
/1			mduchek 11/30/2009	_____	sbasford 11/30/2009	sbasford 11/30/2009	

FE Sent For:

<END>

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/?	gmalaise	1 WJ 11/27		==			

FE Sent For:

<END>

Malaise, Gordon

From: Nancy Rottier [Nancy.Rottier@wicourts.gov]
Sent: Wednesday, November 25, 2009 11:48 AM
To: Malaise, Gordon
Subject: Changes to LRB 36751
Attachments: Juvenile interface legislation - edits to SB 375 clean copy.doc; Juvenile interface legislation - edits to SB 375.doc

I've attached two documents prepared by our Office of Court Operations with proposed changes to SB 375. We are looking to have this be the language of a revised LRB 3675. As I mentioned to you, we will then seek to have Sen. Sullivan introduce the 3675/2 as a substitute amendment. Thanks very much for your assistance. Give me a call if you have questions.

Nancy M. Rottier
Legislative Liaison, Supreme Court
16 East, State Capitol
P.O. Box 1688
Madison, WI 53701-1688
(608) 267-9733
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2009 – 2010 LEGISLATURE

2009 SENATE BILL 375

October 29, 2009 – Introduced by Senators SULLIVAN, TAYLOR, COGGS, DARLING and LEHMAN, cosponsored by Representatives KNODL, GRIGSBY, BERCEAU, DANOU and TOWNSEND. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

AN ACT *to amend* 48.396 (2) (a), 48.47 (7g), 48.78 (2) (a), 938.396 (2) and 938.78 (2) (a); and *to create* 48.396 (3) of the statutes; **relating to:** the exchange of electronic records between the juvenile court, the director of state courts and the Department of Children and Families and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts has established a circuit court automated information system, known as the Consolidated Court Automation Programs (CCAP). CCAP is used by the circuit courts of each county to maintain electronic court case records, including cases filed in the courts assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile courts). Records of the juvenile court, however, are confidential and may not be opened to inspection, nor may their contents be disclosed, except under certain statutory exceptions or by an order of the juvenile court.

Also, under current law, the Department of Children and Families (DCF) has established a Statewide Automated Child Welfare Information System (SACWIS) that contains information about child welfare cases entered into that system by DCF, county departments of human services or social services (county departments), and licensed child welfare agencies. Current law permits DCF, a county department, or any other agency that has entered into an information sharing and access agreement with DCF or a county department and that has been approved for access to SACWIS by DCF to have access to information maintained in SACWIS, if necessary for the performance of its duties under state or federal law.

This bill permits the juvenile court to transfer electronic records of the juvenile court to DCF and permits DCF to transfer electronic records that are contained in SACWIS to the juvenile court. The director of state courts may use CCAP to facilitate the transfer of electronic records between the juvenile court and DCF. The director of state courts and DCF must specify what types of information may be transferred.

In addition: 1) DCF may allow access to any information transferred to DCF only for the purpose of providing child welfare or juvenile justice intake or dispositional services; and 2) the juvenile court may allow access to any information transferred to the juvenile court only to the extent permitted under the Children's Code or the Juvenile Justice Code. Finally, the bill requires DCF, the juvenile court, the director of state courts, and any individual who is allowed access to any information transferred to keep the information confidential and to use and further disclose the information only for the purposes permitted and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.396 (2) (a) of the statutes is amended to read:

48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be entered in books or deposited in files kept for that purpose only. They shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 938 or as permitted under this subsection, sub. (3) (b) and (c) 1. or (6), or s. 48.375 (7) (e).

SECTION 2. 48.396 (3) of the statutes is created to read:

48.396 (3) (a) In this subsection, "juvenile court" means a court assigned to exercise jurisdiction under this chapter and ch. 938.

(b) The juvenile court may transfer information contained in electronic records maintained under sub. (2) (a) to the department. The department may transfer information contained in electronic records from the statewide automated child welfare information system maintained by the department under s. 48.47 (7g) to the juvenile court. The director of state courts may use the circuit court automated information systems established under s. 758.19 (4) to facilitate the transfer of electronic records between the juvenile court and the

department. The department and the director of state courts shall specify what types of information may be transferred.

(c) 1. The department may allow access to any information transferred to the department under this subsection only for the purpose of providing services under s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069. The department may allow access to the records regardless of whether the person who is allowed access to the information is a party to the proceedings in which the electronic records were created.

2. The juvenile court and the director of state courts may allow access to any information transferred to the juvenile court only to the extent that the records may be disclosed under this chapter or ch. 938.

3. The department, the juvenile court, the director of state courts, and any individual who is allowed access to any information transferred under par. (b) shall keep the information confidential and may use and further disclose the information only for the purposes described in subds. 1. and 2.

(d) Any person who intentionally discloses information in violation of par. (c) may be required to forfeit not more than \$5,000.

SECTION 3. 48.47 (7g) of the statutes is amended to read: **[remainder of bill is unchanged]**

2009 – 2010 LEGISLATURE

2009 SENATE BILL 375

October 29, 2009 – Introduced by Senators SULLIVAN, TAYLOR, COGGS, DARLING and LEHMAN, cosponsored by Representatives KNODL, GRIGSBY, BERCEAU, DANOU and TOWNSEND. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

AN ACT to amend 48.396 (2) (a), 48.47 (7g), 48.78 (2) (a), 938.396 (2) and 938.78 (2) (a); **and to create** 48.396 (3) of the statutes; **relating to:** the exchange of electronic records contained in the ~~Consolidated Court Automation Program and in the Statewide Automated Child Welfare Information System~~ between the juvenile court, the director of state courts and the Department of Children and Families and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts has established a ~~consolidated circuit court automated information system~~, known as the Consolidated Court Automation Programs (CCAP), ~~that contains information about cases filed in the circuit courts in this state. CCAP is used by the circuit courts of each county to maintain electronic court case records,~~ including cases filed in the courts assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile courts). Records of the juvenile court, however, are confidential and may not be opened to inspection, nor may their contents be disclosed, except under certain statutory exceptions or by an order of the juvenile court.

Also, under current law, the Department of Children and Families (DCF) has established a Statewide Automated Child Welfare Information System (SACWIS) that contains information about child welfare cases entered into that system by DCF, county departments of human services or social services (county departments), and licensed child welfare agencies. Current law permits DCF, a county department, or any other agency that has entered into an information sharing and access agreement with DCF or a county department and that has been approved for access to SACWIS by DCF to have access to information maintained in SACWIS, if necessary for the performance of its duties under state or federal law.

This bill permits the ~~director of state courts and DCF to enter into an agreement to allow for the juvenile court to transfer of electronic records that are contained in the CCAP system of the juvenile court to DCF and for the permits DCF to transfer of electronic records that are contained in SACWIS to the director of state courts juvenile court. The director of state courts may use CCAP to facilitate the transfer of electronic records between the juvenile court and DCF.~~ The director of state courts and DCF must specify what types of information may be transferred ~~under the agreement.~~

In addition, ~~the agreement must permit:~~ 1) DCF ~~to~~ may allow access to any information transferred to DCF ~~under the agreement~~ only for the purpose of providing child welfare or juvenile justice intake or dispositional services; and 2) ~~the director of state courts to~~ juvenile court may allow access to any information transferred to the ~~director of state courts~~ juvenile court only for the purposes of a proceeding to the extent permitted under the Children's Code or the Juvenile Justice Code. Finally, the bill requires DCF, ~~the juvenile court,~~ the director of state courts, and any individual who is allowed access to any information transferred ~~under the agreement~~ to keep the information confidential and to use and further disclose the information only for the purposes permitted ~~under the agreement~~ and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 48.396 (2) (a) of the statutes is amended to read:

48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be entered in books or deposited in files kept for that purpose only. They shall not be open to inspection or their contents disclosed except by order of the court assigned to exercise jurisdiction under this chapter and ch. 938 or as permitted under this ~~section~~ subsection, sub. (3) (b) and (c) 1. or (6), or s. 48.375 (7) (e).

SECTION 2. 48.396 (3) of the statutes is created to read:

48.396 (3) (a) In this subsection, ~~“consolidated court automation program system” means the statewide electronic circuit court case management system established under s. 758.19 (4) and maintained by the director of state courts.~~ “juvenile court” means a court assigned to exercise jurisdiction under this chapter and ch. 938.

(b) ~~The department and the director of state courts may enter into an agreement to allow for the juvenile court may transfer of information contained in electronic records that are~~

~~contained in the consolidated court automation program system maintained under sub. (2) (a)~~
to the department, ~~and for the~~ The department may transfer of information contained in
electronic records ~~that are contained in~~ from the statewide automated child welfare
information system maintained by the department under s. 48.47 (7g) to the ~~director of state~~
~~courts juvenile court.~~ The director of state courts may use the circuit court automated
information systems established under s. 758.19 (4) to facilitate the transfer of electronic
records between the juvenile court and the department. ~~The agreement~~ department and the
director of state courts shall specify what types of information may be transferred.

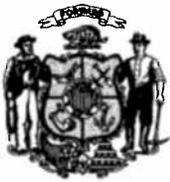
(c) 1. ~~The agreement under par. (b) shall permit the department to~~ may allow access to any
information transferred to the department under ~~the agreement~~ this subsection only for the
purpose of providing services under s. 48.06, 48.067, 48.069, 938.06, 938.067, or 938.069.
The department may allow access to the records regardless of whether the person who is
allowed access to the information is a party to the proceedings in which the electronic records
were created.

2. ~~The agreement under par. (b) shall permit juvenile court and the director of state courts to~~
may allow access to any information transferred to the director of state courts juvenile court
only for the purposes of a proceeding to the extent that the records may be disclosed under
this chapter or ch. 938.

3. The department, the juvenile court, the director of state courts, and any individual who is
allowed access to any information transferred under par. (b) shall keep the information
confidential and may use and further disclose the information only for the purposes described
in subds. 1. and 2.

(d) Any person who intentionally discloses information in violation of par. (c) may be
required to forfeit not more than \$5,000.

SECTION 3. 48.47 (7g) of the statutes is amended to read: **[remainder of bill is unchanged]**



State of Wisconsin

2009 - 2010 LEGISLATURE

IN 11/23

WANTED MON 11/30 AM

SENATE SUBSTITUTE AMENDMENT,

TO 2009 SENATE BILL 375

LRBs0198/1

GMM.../...

Wlj

Gen Cat

- 1 AN ACT... relating to: the exchange of electronic records between the juvenile
- 2 courts and the Department of Children and Families and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the director of state courts has established an automated information system, know as the Consolidated Court Automation Programs (CCAP), that contains information about cases filed in the circuit courts in this state, including cases filed in the courts assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code juvenile courts. Records of the juvenile court, however, are confidential and may not be opened to inspection, nor may their contents be disclosed, except under certain statutory exceptions or by an order of the juvenile court.

Also, under current law, the Department of Children and Families (DCF) has established a Statewide Automated Child Welfare Information System (SACWIS) that contains information about child welfare cases entered into that system by DCF, county departments of human services or social services (county departments), and licensed child welfare agencies. Current law permits DCF, a county department, or any other agency that has entered into an information sharing and access agreement with DCF or a county department, and that has been approved for access to SACWIS by DCF, to have access to information maintained in SACWIS, if necessary for the performance of its duties under state or federal law.

This substitute amendment permits the juvenile court to transfer to DCF the electronic records of the juvenile court and DCF to transfer to the juvenile court the

electronic records of DCF that are maintained in SACWIS. The substitute amendment permits the director of state courts to use CCAP to facilitate the transfer of those electronic records between the juvenile court and DCF and requires the director of state courts and DCF to specify what types of information may be transferred under the substitute amendment.

In addition, the substitute amendment permits 1) DCF to allow access to any information transferred to DCF under the substitute amendment only for the purpose of providing child welfare or juvenile justice intake or dispositional services; and 2) a juvenile court or the director of state courts to allow access to any information transferred to the juvenile court under the substitute amendment only to the extent that the information may be disclosed under the Children's Code or the Juvenile Justice Code.

Finally, the substitute amendment requires DCF, a juvenile court, the director of state courts, and any individual who is allowed access to any information transferred under the substitute amendment to keep the information confidential and to use and further disclose the information only as permitted under the substitute amendment and provides for a forfeiture of not more than \$5,000 for any person who intentionally discloses information in violation of the substitute amendment.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.396 (2) (a) of the statutes is amended to read:

2 48.396 (2) (a) Records of the court assigned to exercise jurisdiction under this
3 chapter and ch. 938 and of courts exercising jurisdiction under s. 48.16 shall be
4 entered in books or deposited in files kept for that purpose only. They shall not be
5 open to inspection or their contents disclosed except by order of the court assigned
6 to exercise jurisdiction under this chapter and ch. 938 or as permitted under this
7 ~~section~~ subsection, sub. (3) (b) or (c) 1. or (6), or s. 48.375 (7) (e).

8 **SECTION 2.** 48.396 (3) of the statutes is created to read:

9 48.396 (3) (a) In this subsection, "court" means the court assigned to exercise
10 jurisdiction under this chapter and ch. 938.

11 (b) The court may transfer to the department information contained in the
12 electronic records of the court, regardless of whether the department is a party to the

1 proceedings in which the electronic records containing that information were
2 created, and the department may transfer to the court information contained in the
3 electronic records of the department that are maintained in the statewide automated
4 child welfare information system under s. 48.47 (7g). The director of state courts may
5 use the circuit court automated information systems established under s. 758.19 (4)
6 to facilitate the transfer of those electronic records between the court and the
7 department. The director of state courts and the department shall specify what types
8 of information may be transferred under this paragraph.

9 (c) 1. The department may allow access to any information transferred to the
10 department under par. (b) only for the purpose of providing services under s. 48.06,
11 48.067, 48.069, 938.06, 938,067, or 938.069. The department may allow that access
12 regardless of whether the person who is allowed that access is a party to the
13 proceedings in which the electronic records containing that information were
14 created.

15 2. The court or the director of state courts may allow access to any information
16 transferred to the court under par. (b) only to the extent that the information may
17 be disclosed under this chapter or ch. 938.

18 3. The department, a court, the director of state courts, and any individual who
19 is allowed access to any information transferred under par. (b) shall keep the
20 information confidential and may use and further disclose the information only for
21 the purpose described in subd. 1. or to the extent permitted under subd. 2.

22 (d) Any person who intentionally discloses information in violation of par. (b)
23 may be required to forfeit not more than \$5,000.

24 **SECTION 3.** 48.47 (7g) of the statutes is amended to read:

1 48.47 (7g) STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM. Establish
2 a statewide automated child welfare information system. Notwithstanding ss.
3 46.2895 (9), 48.396 (1) and (2) (a), 48.78 (2) (a), 48.981 (7), 49.45 (4), 49.83, 51.30,
4 51.45 (14) (a), 55.22 (3), 146.82, 252.11 (7), 252.15, 253.07 (3) (c), 938.396 (1) (a) and
5 (2), and 938.78 (2) (a), the department may enter the content of any record kept or
6 information received by the department into the statewide automated child welfare
7 information system, and a county department under s. 46.215, 46.22, or 46.23, the
8 department, or any other organization that has entered into an information sharing
9 and access agreement with the department or any of those county departments and
10 that has been approved for access to the statewide automated child welfare
11 information system by the department may have access to information that is
12 maintained in that system, if necessary to enable the county department,
13 department, or organization to perform its duties under this chapter, ch. 46, 51, 55,
14 or 938, or 42 USC 670 to 679b to or to coordinate the delivery of services under this
15 chapter, ch. 46, 51, 55, or 938, or 42 USC 670 to 679b. The department may also
16 transfer information that is maintained in the system to a court under s. 48.396 (3)
17 (b), and the court and the director of state courts may allow access to that information
18 as provided in s. 48.396 (3) (c) 2.

19 **SECTION 4.** 48.78 (2) (a) of the statutes is amended to read:

20 48.78 (2) (a) No agency may make available for inspection or disclose the
21 contents of any record kept or information received about an individual in its care
22 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),
23 48.396 (3) (b) or (c) 1., 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7),
24 938.51, or 938.78 or by order of the court.

25 **SECTION 5.** 48.78 (2) (h) of the statutes is amended to read:

1 48.78 (2) (h) Paragraph (a) does not prohibit the department, a county
2 department, or a licensed child welfare agency from entering the content of any
3 record kept or information received by the department, county department, or
4 licensed child welfare agency into the statewide automated child welfare
5 information system established under s. 48.47 (7g) or the department from
6 transferring any information maintained in that system to the court under s. 48.396
7 (3) (b). If the department transfers that information to the court, the court and the
8 director of state courts may allow access to that information as provided in s. 48.396
9 (3) (c) 2.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a).

10 **SECTION 6.** 938.396 (2) of the statutes is amended to read:

11 938.396 (2) COURT RECORDS; CONFIDENTIALITY. Records of the court assigned to
12 exercise jurisdiction under this chapter and ch. 48 and of municipal courts exercising
13 jurisdiction under s. 938.17 (2) shall be entered in books or deposited in files kept for
14 that purpose only. Those records shall not be open to inspection or their contents
15 disclosed except by order of the court assigned to exercise jurisdiction under this
16 chapter and ch. 48 or as permitted under sub. (2g) or (10) or s. 48.396 (3) (b) or (c) 1.

17 **SECTION 7.** 938.78 (2) (a) of the statutes is amended to read:

18 938.78 (2) (a) No agency may make available for inspection or disclose the
19 contents of any record kept or information received about an individual who is or was
20 in its care or legal custody, except as provided under sub. (3) or s. 48.396 (3) (b) or (c)
21 1., 938.371, 938.38 (5) (b) or (d) or (5m) (d), 938.51, or 938.57 (2m) or by order of the
22 court.

23 **SECTION 8.** 938.78 (2) (h) of the statutes is amended to read:

1 938.78 (2) (h) Paragraph (a) does not prohibit the department of children and
 2 families, a county department, or a licensed child welfare agency from entering the
 3 content of any record kept or information received by that department, county
 4 department, or licensed child welfare agency into the statewide automated child
 5 welfare information system established under s. 48.47 (7g) or the department of
 6 children and families from transferring any information maintained in that system
 7 to the court under s. 48.396 (3) (b). If the department ^{of children and families} transfers that information to
 8 the court, the court and the director of state courts may allow access to that
 9 information as provided in s. 48.396 (3) (c) 2.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283; 1999 a. 9; 2001 a. 38, 59, 109; 2003 a. 292, 321; 2005 a. 25, 277, 293, 344, 406, 434; 2007 a. 20 ss. 3834, 9121 (6) (a); 2007 a. 97.

(END)